

SECTION 14 – FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Temporary Amendment to Harris County Personnel Policies & Procedures

This section has been adopted to comply with the Families First Coronavirus Response Act (FFCRA) signed into law on March 18, 2020. This Section 14 is effective from April 1, 2020, to December 31, 2020.

FFCRA provides eligible employees with two major additional benefits for COVID-19 related events: (1) a new qualifying condition for FMLA leave related to child care disruption due to the current public health emergency (COVID-19 FMLA leave) and (2) paid sick time for certain reasons related to COVID-19 (COVID-19 Sick Leave).

An employee who is a health care provider or an emergency responder is excluded from the application of Subsections 14.01 and 14.02.

The exclusion applies to the following persons:

- Employees of Public Health
- Employees of the Office of Homeland Security and Emergency Management
- Emergency responders and essential personnel in the Harris County Sheriff's Office, Constables' Offices, and Fire Marshal's Office
- Other employees who are necessary to provide aid in a declared emergency or to maintain the operation of a facility that is necessary to provide aid in a declared emergency, as designated by their Department Head.

Departments with questions regarding which employees are excluded from this Act should contact the Harris County Attorney's Office.

14.01 EMERGENCY FMLA EXPANSION ACT (COVID-19 FMLA LEAVE)

FFCRA amends the Family and Medical Leave Act of 1993 (the FMLA) to add an additional qualifying condition for FMLA leave for employees who encounter child care disruptions due to a public health emergency and provides partial paid leave for employees who take FMLA leave for this reason. Unlike regular FMLA, an employee is eligible to use COVID-19 FMLA leave after the employee has been employed by the County for 30 calendar days. *An employee who is a health care provider or an emergency responder is excluded from the application of this Section.* **COVID-19 FMLA leave under this Section counts against an employee's FMLA leave entitlement under [Section 11.1041 of the Harris County Personnel Policies & Procedures](#).**

14.011 Definitions

The following definitions apply to this Section only. The words and terms defined in this Section have the meaning given unless the context clearly indicates another meaning.

14.0111 Eligible Employee

An employee who has been employed with Harris County or Harris County Flood Control for at least 30 calendar days and is not a health care provider or an emergency responder. *Contact Human Resources & Risk Management at CentralHRSTARShelpdesk@hctx.net if an employee is not eligible for regular FMLA leave and needs to use COVID- 9 FMLA leave for child care disruption.*

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14.0112 Qualifying Need Related to a Public Health Emergency

When the eligible employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency. This type of FMLA leave will be referred to as “COVID-19 FMLA leave.”

14.0113 Public Health Emergency

An emergency with respect to COVID-19 declared by a Federal, State, or local authority.

14.0114 Child Care Provider

A provider who receives compensation for providing child care services on a regular basis.

14.0115 Son or Daughter

A biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing *in loco parentis* who is under 18 years of age or who is 18 years of age or older and incapable of self-care because of a mental or physical disability.

14.012 COVID-19 FMLA Leave Protections

The same protections listed in [Section 11 of the Harris County Personnel Policies & Procedures](#) apply to COVID-19 FMLA leave.

14.0121 Job Restoration

Additionally, Departments who are unable to restore an employee to the employee’s same or equivalent position upon the employee’s return to work from COVID-19 FMLA leave because of operational change must make reasonable efforts to contact the displaced employee for up to one year after they are displaced if an equivalent position becomes available.

14.013 COVID-19 FMLA Leave for a Qualifying Need Related to a Public Health Emergency

Eligible employees who are unable to work (or telework) due to a need for leave to care for their son or daughter under 18 years of age because their son’s or daughter’s school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency, may take any available FMLA leave in full-day increments for this reason subject to the following:

14.0131 Notice Requirement

Employees needing to use FMLA leave under this section must notify their department of the need as soon as practicable. Departments may require employees to still follow their department’s call-in procedures for reporting an absence while taking leave.

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14.0132 Documentation Requirement

Employees must provide appropriate documentation in support of their leave request, such as a notice that has been posted on a government, school, or day care website, or a published newspaper, or an email from an employee or official of the school, place of care, or child care provider. The employee's department must retain the documentation submitted in support of the COVID-19 FMLA leave.

14.0133 Taking COVID-19 FMLA Leave

Employees must take COVID-19 FMLA leave in full-day increments.

14.0134 First ten (10) work days of COVID-19 FMLA Leave

For the first 10 work days of FMLA leave under this Section, employees can elect to take unpaid leave or substitute any accrued vacation, compensatory time, or COVID-19 Sick Leave. *For employees who are not normally scheduled to work ten days in a two week period, the employee will be unpaid for the equivalent of two weeks.*

Example: Sam is scheduled to work four days per week, 10 hours each day. Sam usually works eight (8) days over a two week period. Sam will be unpaid for his first 8 days of COVID-19 FMLA Leave.

14.0135 After first ten (10) work days of COVID-19 FMLA Leave

After the first 10 work days of COVID-19 FMLA leave, the employee will be paid two-thirds (2/3) of the employee's regular hourly rate of pay and based on the number of hours the employee is regularly scheduled to work. Wages for COVID-19 FMLA leave will be paid until either (1) the employee's FMLA leave entitlement is exhausted, OR (2) the employee is paid \$10,000 in the aggregate, whichever occurs first. Employees on COVID-19 FMLA leave cannot substitute any other available paid leave in order to receive their full regular rate of pay during their paid COVID-19 FMLA leave. *For employees who are not normally scheduled to work ten days in a two week period, the employee will be paid after the equivalent of two weeks off.*

Example: Sam is scheduled to work four days per week, 10 hours each day. Sam usually works eight (8) days over a two week period. Sam will be paid after taking his first 8 days of COVID-19 FMLA Leave.

14.02 EMERGENCY PAID SICK LEAVE ACT (COVID-19 SICK LEAVE)

An employee who is unable to work (or telework) due to certain COVID-19 related reasons is eligible to take COVID-19 Sick Leave. *An employee who is a health care provider or an emergency responder is excluded from the application of this Section.*

14.021 Qualifying Events

Eligible employees may use COVID-19 Sick Leave for the following reasons:

- (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;

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- (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID–19;
- (3) The employee is experiencing symptoms of COVID–19 and seeking a medical diagnosis
- (4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2);
- (5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID–19 precautions; or
- (6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

14.022 Amount of Leave Hours

Eligible Regular Position (full-time) employees may use up to 80 hours of COVID-19 Sick Leave. Part-time and Temporary employees may use up to 60 hours of COVID-19 Sick Leave.

14.023 Notice Requirement

Employees needing to use COVID-19 Sick Leave must notify their department of the need as soon as practicable. Departments may require employees to still follow their department's call-in procedures for reporting an absence while taking leave.

14.024 Documentation Requirement

Employees who take COVID-19 Sick Leave **must provide appropriate documentation:**

- (1) **of the reason for leave**, such as the source of any quarantine or isolation order, the name of the health care provider who advised the employee to self-quarantine, the name of the employee's child's school or day care that is closed due to the COVID-19 public health emergency; and
- (2) **that support of the reason for the leave**, such as the qualifying reason for requesting leave; statement from the employee that employee is unable to work or telework due to day care disruption; a notice of closure of school or day care that has been posted on a government, school, or day care website, or a published newspaper, or an email from an employee or official of the school, place of care, or child care provider; a copy of the Federal, State or local quarantine or isolation order; or written documentation by a health care provider advising the employee to self-quarantine.

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14.025 Taking COVID-19 Sick Leave

Unless the employee is teleworking, once the employee begins taking paid sick leave for qualifying reasons 1, 2, or 3 under subsection 14.021, the employee must not return to their normal worksite until the employee either (1) uses the full amount of paid sick leave or (2) no longer has a qualifying reason for taking paid sick leave.

Departments have the discretion to allow employees to take COVID-19 Sick Leave for qualifying reasons on an intermittent basis.

14.026 COVID-19 Sick Leave for School Closure or Childcare Disruption

If an employee uses COVID-19 Sick Leave for school closure or childcare disruption (5) above:

- (1) *it must be taken in full day increments; and*
- (2) the time will run concurrent with any COVID-19 FMLA leave that the employee has available.

If you have any questions, talk with your supervisor, appropriate department representative, or call Human Resources & Risk Management.

14.03 USE OF COVID-19 SICK LEAVE BY HEALTH CARE PROVIDERS OR EMERGENCY RESPONDERS

14.031 Qualifying Events for Use of COVID-19 Sick Leave by Health Care Providers or Emergency Responders:

Department Heads have the discretion to allow employees who are excluded from the application of subsection 14.01 and 14.02 and unable to work or telework, to use up to 80 hours of COVID-19 Sick Leave for the following reasons:

- (1) The employee is exposed to COVID-19 and has documentation from a healthcare provider to self-quarantine due to concerns related to COVID-19 or the Department Head reasonably believes the self-quarantine is necessary to limit the spread of COVID-19;
- (2) The Department Head orders the employee to self-quarantine due to concerns related to COVID-19; or
- (3) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.

14.032 Taking COVID-19 Sick Leave under this Subsection

Unless the employee is teleworking, once the employee begins taking leave under subsection 14.03, the employee must not return to their normal worksite until the employee either (1) uses the full amount of COVID-19 sick leave or (2) no longer has a qualifying reason for taking paid sick leave.

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14.033 Notice Requirement

Departments may require employees to still follow their department's call-in procedures for reporting an absence while taking leave under subsection 14.03.

14.034 Documentation Requirement

The employee's department must maintain all documentation relating to support the use of leave under this section in a separate file.